IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4896 OF 2007

Office Notes, Office Memoranda of Coram, appearances, Court's order or directions	Court's or Judge's orders
	¦ Mr.Suresh Kumar for the ¦ Petitioner. ¦ Mr.A.J.Bhatkar for the Respondent. ¦ ¦ **CORAM: D.K.DESHMUKH &** ¦ V.M.KANADE**, JJ.** ¦ **DATED:** 13TH DECEMBER, 2007

P.C.:

1. Heard the learned Counsel for both sides. The learned Counsel appearing for the Petitioner has pointed out to us that the judgment of the Supreme Court in the case of Badri Prasad and ors. v/s. Union of India and ors., (2005) 11 SCC 304 and another judgment of the Supreme Court in the case of Bhadei Rai v/s. Union of India and ors. (2005) 11 SCC 298 and the judgment of this Court in Writ Petition No.1139 of 2004, Union of India v/s. Anilkumar

H.Pandey and ors., dated 26th April, 2007 by one of us (Hon'ble Mr.Justice V.M.Kanade) are judgments clearly in point, but have not been considered by the Tribunal in deciding the application. It is apparent that these judgments were not pointed out to the tribunal, therefore, have not been considered, but it is true that these judgments are relevant and should have been considered by the tribunal in deciding the application. In our opinion, therefore, following order would meet the ends of justice.

O R D E R

(i) The order impugned in the petition is set aside.

(ii) Original Application No.718 of 2005 is remitted back to the Central Administrative Tribunal for denovo consideration and decision in accordance with law.

(iii) Till the Tribunal decides the Original Application No.718 of 2005, the pay that the Respondent was

drawing on the date when the order impugned in the Original Application No.718 of 2005 was made shall be protected and the Respondent shall be paid accordingly.

(iv) Rule made absolute accordingly. No order as to costs.

(D.K.DESHMUKH, J.)

(V.M.KANADE, J.)